

## **CHAPTER 19.08**

### **Annexation**

#### **19.08.010 Purpose.**

The purpose of this Chapter is to establish a procedure to bring land under the jurisdiction of the City in compliance with the Colorado Municipal Annexation Act of 1965, as amended. This Chapter also provides standards for annexation and for compliance with other provisions of the Municipal Code and all other applicable plans, regulations and standards. (Ord. 522-11; 322-05; 005-00)

#### **19.08.020 Responsibilities of applicant.**

A. In addition to other duties imposed upon all applicants by this Code and the Colorado Municipal Annexation Act of 1965, as amended, all applicants shall have the following responsibilities.

1. The applicant is responsible for having a representative at all meetings of the Planning Commission and of the City Council where the request is reviewed. Failure to have a representative present will be cause to have the item withdrawn from the agenda of that meeting.

2. The applicant shall consult with the City Manager or his/her designee to discuss any special conditions pertaining to the annexation and to obtain an annexation petition and application materials.

3. All fees for all annexation applications shall be as shown in the "City of Evans General Fee Schedule" as adopted and revised by resolution by the City Council. (Ord. 522-11)

#### **19.08.030 Annexation policy.**

A. The City Council shall have the sole discretion in the annexation of territory proposed for annexation to the City, and the City is under no obligation to approve an annexation petition.

B. All annexations to the City shall comply with the Colorado Municipal Annexation Act of 1965, as amended.

C. Land to be annexed shall conform to the goals, policies and strategies of the City.

D. The petitioner for annexation of land to the City shall be responsible for paying all required fees, and for all related costs and overhead incurred by the City in reviewing and processing the annexation petition.

E. Annexation shall not divide tracts of land in such a way as to prevent annexation of adjoining land.

F. All annexations shall be accompanied by an agreement between the petitioner and the City, stating conditions related to municipal services or other terms of annexation that are not specifically provided for in the Code.

G. Unless specifically deferred by the City Council, zoning of the property shall occur concurrently with the annexation. Proposed zoning shall conform to a concept land use plan submitted with the annexation petition and comply with the Comprehensive Plan, unless changing conditions justify other zoning.

H. In accordance with this Code (Chapter 13.08.040), sufficient water rights shall be deeded to the City at the time of annexation unless alternate provisions are approved in the annexation agreement.

I. Required contiguity of noncontiguous parcels proposed for annexation may be achieved by annexation of one (1) or more portions of street right-of-way or other public way, a process commonly referred to as *flagpole annexation*. (Ord. 522-11)

#### **19.08.040 Annexation process.**

The requirements as set forth in this Section may be waived or modified as determined by the City Manager or his/her designee based on the size of the proposed land area to be annexed and the timing and intensity of development proposed by the applicant. No such waiver or modification shall apply to the requirements of the Colorado Municipal Annexation Act of 1965 as amended.

A. Pre-application conference. Landowners considering annexation shall meet with representatives of the Community and Economic Development Department prior to submitting any annexation request for the purpose of reviewing the City's requirements, obtaining annexation application materials and beginning discussion of the terms of an annexation agreement.

B. Application requirements. The applicant shall submit to the Community and Economic Development Department the annexation petition and land use application materials. Complete annexation applications shall include the following:

1. Completed land use application form.
2. Annexation petition in a form provided by the City, signed by one hundred percent (100%) of the owners of the property being annexed.
3. Required annexation fees and a deposit in an amount specified by the City for the cost of reviewing and processing the application.
4. One (1) full-size paper copy and five (5) eleven (11) inch by seventeen (17) inch paper reductions of the annexation map.
5. One (1) full-size paper copy and five (5) eleven (11) inch by seventeen (17) inch paper reductions of the concept plan, showing the anticipated land uses for the property.
6. A completed application for zoning the property being annexed in conformance with the requirements of this Code for amending the official zoning map.

7. The following supportive information that will enable City staff to evaluate the impacts of the annexation on the City:

- a. Soils description and limitation.
- b. A statement of any known hazards and other important environmental conditions present on the property.
- c. Preliminary utility plan.
- d. Affidavit concerning the amount and historical use of all water rights owned.
- e. An economic impact report describing the impacts of the annexation on City services and tax base.
- f. Floodplain information.

8. Title commitment. Such commitment must have an effective date less than thirty (30) days prior to the date of the submittal of the annexation petition.

9. Mailing list and labels as required by the City of all property owners within five hundred (500) feet of the boundaries of the annexation.

10. In the case of flagpole annexations, a separate list and set of mailing labels of owners of property adjacent to the public right-of-way proposed to achieve contiguity.

11. Statement on community need for proposed annexation and zoning and how the proposed annexation and zoning is consistent with all applicable City plans.

12. For all annexations in excess of ten (10) acres, a statement from the school district governing the area to be annexed of the effect of the annexation upon the school district, including an estimate of the number of students generated by the proposed annexation and the capital construction required to educate such students.

13. Letter from the Evans Fire Protection District regarding inclusion.

14. Draft copy of the annexation agreement.

15. Annexation impact report.

16. Legal description of the property to be annexed.

17. An electronic copy of all submitted documents.

C. Staff certifies the application is complete. Within ten (10) days, Community and Economic Development Department Staff shall either certify that the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. The applicant shall then correct any deficiencies in the application package, if necessary. If all

documents are complete and accurate, the Community and Economic Development Department shall submit the annexation petition to the City Clerk for presentation to the City Council.

D. Annexation petition referral to the City Council.

1. The City Clerk shall present the annexation petition and a resolution determining substantial compliance with the Colorado Municipal Annexation Act of 1965, as amended and initiating annexation proceedings to the City Council within fifteen (15) days if possible and after the staff has certified completeness of the application.

2. The City Council shall, at a regular or special meeting, consider whether the petition is in substantial compliance with applicable provisions of the Colorado Municipal Annexation Act of 1965, as amended.

3. If the petition is found to be in substantial compliance with the Colorado Municipal Annexation Act of 1965, as amended, the Council may, by adoption of a resolution of substantial compliance, initiating annexation proceedings and establishing the dates for public hearings for both the Planning Commission and City Council. The public hearing before the City Council can be held no sooner than thirty days (30) nor more than sixty (60) days after the effective date of the resolution accepting the annexation petition and initiating annexation proceedings.

4. If the petition is found to not be in compliance with the Colorado Municipal Annexation Act of 1965, as amended, no further action shall be taken, except that such findings shall be made by resolution of the Council.

E. Notice.

1. The Community and Economic Development Department shall give appropriate notice in accordance with the Colorado Municipal Annexation Act of 1965, as amended.

2. The Community and Economic Development Department shall send copies of the annexation petition and the resolution of substantial compliance by certified mail to the Clerk of the Weld County Board of County Commissioners and to the County Attorney.

3. Not less than twenty-five (25) days prior to the City Council public hearing, the Community and Economic Development Department shall send copies of the annexation petition and the resolution by certified mail to any school district or special district having territory within the annexed area.

4. Using the mailing list provided by the applicant, the Community and Economic Development Department shall send a summary of the petition and a notice of the scheduled Planning Commission and City Council public hearings by first-class mail to owners of land within five hundred (500) feet of the property proposed for annexation at least ten (10) days prior to the public hearing.

5. In the event of a flagpole annexation, and using the mailing list provided by the applicant, the Community and Economic Development Department shall send a summary of

the petition and a notice of the scheduled Planning Commission and City Council public hearings by first-class mail to owners of land contiguous with the public way being used to achieve contiguity, and advising such owners of their rights under the Act to petition for annexation.

6. Upon acceptance of the annexation petition by the City Council, the Community and Economic Development Department may submit copies of the annexation map and the concept land use plan, and notice of the public hearings to additional interested entities as determined by the Community and Economic Development Department in its sole discretion. Notices shall include a summary of the proposed annexation and the scheduled hearing dates and location.

7. At least ten (10) days prior to the Planning Commission and City Council public hearings, the applicant shall post the property with a notice of the hearing as required by the Community and Economic Development Department.

8. At least thirty (30) days prior to the City Council public hearing, the Community and Economic Development Department shall publish notice of the date, time and place that the Planning Commission and Board of Trustees will be holding the public hearing. The notice must be published once a week for four (4) consecutive weeks.

F. Annexation impact report.

1. Not less than twenty five (25) days before the date of the City Council hearing, the City Clerk shall send by first-class mail one (1) copy of the annexation impact report to the Weld County Board of County Commissioners.

2. The preparation and filing of the annexation impact report may be waived by the Board of County Commissioners.

G. Planning Commission public hearing. The Planning Commission shall review the annexation map, the concept land use plan, and the zoning request at a public hearing at a regular or special meeting to be held prior to the date of the public hearing before the City Council. The Planning Commission shall recommend approval of the petition for annexation and zoning with or without modifications and/or conditions, or recommend denial. The Planning Commission shall refer any such recommendation to the City Council.

H. Annexation agreement. The Community and Economic Development Department shall coordinate discussion among the applicant and appropriate representatives of the City regarding the provisions of an annexation agreement. The agreement shall be in a form provided by the City. A draft agreement shall be prepared in advance of the City Council public hearing.

I. City Council hearing. After public hearing, the City Council may consider the approval of an ordinance annexing the property to the City without election if it finds that the annexation is in compliance with the requirements of the Act and of this Code, and that no election is required under the Act. The annexation ordinance may also approve or approve with conditions the annexation agreement.

J. Final submittal. In the event the City Council approves an annexation ordinance, the applicant shall submit to the Community and Economic Development Department within ten (10) days of the effective date of the ordinance two (2) Mylars of the final annexation map, including all original signatures and the signed annexation agreement. All maps, drawings and documents shall also be submitted in electronic format.

K. Recording. Upon receipt of all required original maps and documents, the Community and Economic Development Department shall record the annexation ordinance, the annexation map and the annexation agreement in the records of the County Clerk and Recorder. (Ord. 522-11)

#### **19.08.050 Annexation map standards.**

All annexation maps shall be made with an engineer's scale, minimum scale to be one (1) inch represents one hundred (100) feet, and shall be on reproducible Mylar with outer dimensions of twenty-four (24) by thirty-six (36) inches.

A. The annexation map shall contain the following information:

1. The date of preparation, the scale and a symbol designating true north.
2. The name of the annexation.
3. The names, addresses and phone numbers of the applicant and the firm or person responsible for preparing the annexation map.
4. The legal description.
5. Distinction of the boundary that is contiguous to the City and the length of same.
6. Lot and block numbers if the area is already platted.
7. Existing and proposed easements and rights-of-way.
8. Existing and requested zoning and acreage of each requested zone.
9. Ownership of all parcels within and adjacent to the annexation.
10. Appropriate certification blocks as directed by the Community and Economic Development Department. (Ord. 522-11)

#### **19.08.060 Concept land use plan standards.**

A. Concept land use plans shall be made with an engineer's scale, minimum scale to be one (1) inch represents one hundred (100) feet, and shall be on Mylar with outer dimensions of twenty-four (24) by thirty-six (36) inches. Depending of the proposed use of the property, the Community and Economic Development Department Director has the discretion to waive the requirement that the concept land use plan be submitted on Mylar and in map format. As a substitute, the owner may submit a concept land use plan in written format.

B. The purpose of the concept land use plan conveys to the staff and the City the general plans for the parcel seeking annexation. The concept land use plan shall neither be intended, nor shall it be construed as a site-specific development plan.

C. The concept land use plan shall contain the following information:

1. The date of preparation, the scale and a symbol designating true north.
2. The name of the annexation.
3. The names, addresses and phone numbers of the applicant and the firm or person responsible for preparing the plan.
4. General location of existing and proposed easements and rights-of-way.
5. Proposed phasing plan for development of the property.
6. Proposed gross and net residential density, and anticipated schedule for residential development.
7. Proposed location and use of any commercial and industrial sites, and anticipated development schedule.
8. General location of all public sites to be reserved and dedicated.
9. Existing topographical contours at a minimum interval of ten (10) feet. In the event of significant topographical features, the Planning Department may require contours at a smaller interval. (Ord. 522-11)

**19.08.070 Annexation impact standards.**

A. For all annexations in excess of ten (10) acres, the City shall prepare an impact report regarding the proposed annexation.

B. The annexation impact report shall include the following:

1. A map or maps of the City and adjacent territory showing the following information:
  - a. The present and proposed boundaries of the City in the vicinity of the proposed annexation.
  - b. The present streets, major trunk water lines, sewer interceptors and outfalls, other utility lines and ditches and the proposed extension of such streets and utility lines in the vicinity of the proposed annexation.
  - c. The existing and proposed land use pattern in the areas to be annexed.
2. A statement of the City's plans for extending or providing for municipal services within the area to be annexed.

3. A statement of the City's plans for the financing of municipal services to be extended into the area to be annexed.

4. A statement identifying all existing districts within the area to be annexed.

5. A statement of the effect of the annexation upon the school district governing the area to be annexed.

6. A copy of the draft annexation agreement if available. (Ord. 522-11)

#### **19.08.080 Review criteria.**

It shall be the general policy of the City with respect to annexations and the consideration of annexation petitions that:

1. Annexation is a discretionary act. With the exception of an initiated petition for the annexation of an enclave, the Board of Trustees shall exercise its sole discretion in the annexation of territory to the City.

2. The property is eligible for annexation if the annexation complies with the Colorado Annexation Act of 1965, as amended.

All annexations shall comply with the all applicable City plans, standards and regulations. (Ord. 522-11)

#### **19.08.090 Disconnection.**

A. Disconnection of territory from the City may only be accomplished by approval of the City Council pursuant to hearing. No property may be disconnected if it has been platted into lots or blocks unless such lots and blocks are vacated by the City Council. Upon receipt of a petition for disconnection, such petition shall be submitted to the City Council at its next regular City Council meeting provided such petition is submitted at least ten (10) days prior to such meeting. In the event that City Council gives preliminary approval of disconnection, a hearing shall be set not less than twenty (20) days after such preliminary approval.

B. At the time of hearing, the City Council shall receive staff reports and comments from those in favor and against disconnection. A decision to disconnect shall only be approved by a majority vote of the entire City Council. Disconnection may only be finalized by ordinance. Petitioners for disconnection shall pay all costs of disconnection, including but not limited to applicable election costs and the City's professional fees.

C. To approve disconnection, City Council must find at least two (2) of the following conditions exists:

1. The property is not urban and cannot, in the foreseeable future, be urbanized.

2. The property cannot be reasonably integrated with the City.



3. Urban services cannot be reasonably extended to serve the property. (Ord. 522-11; 322-05; 005-00)

**19.08.100 Annexation of enclaves and municipally owned land.**

When and unincorporated area has been entirely contained within the City's boundaries for at least three (3) consecutive years or the land is owned by the City, the City may annex and zone the property by ordinance without regard to the review criteria or public hearing requirements. Public notice must still be given. This option is not available if any of the enclave consists at the time of annexation, solely of public-right-of-way that has been annexed by the City, instead the City must surround the enclave with real property. At the time of annexation the enclave must be able to receive all municipal services including water and sewer. (Ord. 522-11)